IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 22412 of 2004

Between:

1 Shaik Osman Bee, W/o Pakeer Saheb,
R/o Kamalapuram, Mudigonda (M), Khammam District.
2 Shaik Sydabi , W/o Nazar Saheb,
R/o Kamalapuram, Mudigonda (M), Khammam District.

.... PETITIONERS

AND

1 The President/Manager, Banapuram P.A.C.S. Primary Agrl. Coop.

Society, Mudigonda (M),Khammam District.
2 Shaik Pakeer Saheb, S/o Nazar Saheb,
Mudigonda (M), Khammam District.
3 Deputy Registrar/Officer on Special Duty, District Coop. Central

Bank Ltd, Khammam, Khammam District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ order or direction more appropriately a writ in the nature of Mandamus by declaring that the sale notice in W.P.No. 51/2003-2004, dt. 20-10-2004 issued by the Deputy Registrar/Officer on Special Duty, District Cooperative Central Bank Ltd, Khammam as arbitrary, illegal and unconstitutional and further prayed that this Hon'ble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner:MR.Y.SUBRAHMANYAM

Counsel for the Respondent No.1 : GP FOR COOPERATION

The Court at the admission stage, made the following :

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ORDER:

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The petitioners claim to be the owners of the properties, which are sought to be sold in the auction, in pursuance of a sale notice, dated 20-10-2004. The petitioners claim that their properties are sought to be sold in the course of a recovery of a sum, from the 2nd respondent, who is none other than the husband of the 1st petitioner and the son of the 2nd petitioner.

Heard the learned counsel for the petitioner and the learned Government Pleader for Cooperation.

The petitioners claim that they are the absolute owners of the properties, that are sought to be sold and that the 2nd respondent has no concern with the said properties. Their claim is similar to the one contemplated under Rule 58 of Order 21 C.P.C. Whenever the properties of 3rd parties are sought to be attached, or sold in the course of execution of a decree or award, it shall be competent for the aggrieved parties to raise objection before the Executing Agency. If the petitioners are able to satisfy the 3rd respondent that they are the exclusive owners, and the 2nd respondent has no right or claim over the said lands, he can certainly pass necessary orders and take appropriate steps.

Hence, the writ petition is disposed of, directing that the proposed sale may go on, but the confirmation of sale shall be deferred till the 3rd respondent passes appropriate orders on the claim that may be raised by the petitioners. The 3rd respondent shall be under obligation to pass such orders, if the petitioners submit

their claim together with necessary material and proof, within two weeks from today. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.03-12-2004

Note: c.c. in two days.

(B/O) *KO*

To

1 The President/Manager, Banapuram P.A.C.S. Primary Agrl. Coop.

Society, Mudigonda (M),Khammam District.
2 Deputy Registrar/Officer on Special Duty, District Coop. Central

Bank Ltd, Khammam, Khammam District.

3 2 CCs to GP for Cooperation, High Court Buildings, Hyderabad.(OUT)

4 2 CD copies